

independent accountant certifying approval must be filed within 150 days of the close of the company's fiscal year; the letter or report must also identify which, if any, of the examined schedules do not conform to the Commission's requirements and shall describe the discrepancies that exist. The Commission will not be bound by a certification of compliance made by an independent accountant pursuant to this paragraph.

[73 FR 58736, Oct. 7, 2008]

#### § 41.12 Qualifications of accountants.

The Commission will not recognize any certified public accountant or public accountant through December 31, 1975, who is not in fact independent. Beginning January 1, 1976, and each year thereafter, the Commission will recognize only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, who are in fact independent. For example, an accountant will not be considered independent with respect to any person or any of its parents or subsidiaries in whom he has, or had during the period of report, any direct financial interest. The Commission will determine the fact of independence by considering all the relevant circumstances including evidence bearing on the relationships between the accountant and that person or any affiliate thereof.

[Order 462, 37 FR 26006, Dec. 7, 1972]

## PART 42—LONG-TERM FIRM TRANSMISSION RIGHTS IN ORGANIZED ELECTRICITY MARKETS

Sec.

42.1 Requirement that Transmission Organizations with Organized Electricity Markets Offer Long-Term Firm Transmission Rights.

AUTHORITY: 16 U.S.C. 791a–825r and section 217 of the Federal Power Act, 16 U.S.C. 824q.

SOURCE: Order 681, 71 FR 43619, Aug. 1, 2006, unless otherwise noted.

### § 42.1 Requirement that Transmission Organizations with Organized Electricity Markets Offer Long-Term Firm Transmission Rights.

(a) *Purpose.* This section requires a transmission organization with one or more organized electricity markets (administered either by it or by another entity) to make available long-term firm transmission rights, pursuant to section 217(b)(4) of the Federal Power Act, that satisfy each of the guidelines set forth in paragraph (d) of this section. This section does not require that a specific type of long-term firm transmission right be made available, and is intended to permit transmission organizations flexibility in satisfying the guidelines set forth in paragraph (d) of this section.

(b) *Definitions.* As used in this section:

(1) *Transmission Organization* means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other independent transmission organization finally approved by the Commission for the operation of transmission facilities.

(2) *Load serving entity* means a distribution utility or an electric utility that has a service obligation.

(3) *Service obligation* means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State, or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

(4) *Organized Electricity Market* means an auction-based day ahead and real time wholesale market where a single entity receives offers to sell and bids to buy electric energy and/or ancillary services from multiple sellers and buyers and determines which sales and purchases are completed and at what prices, based on formal rules contained in Commission-approved tariffs, and where the prices are used by a transmission organization for establishing transmission usage charges.

(c) *General rule.* (1) Every public utility that is a transmission organization and that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce